

2008/JAN/30/WED 02:52 PM

Re: [REDACTED] FOSTER MALISH & BLAIR

Jan 30 2008 02:40pm
FAX No. 512 477 8657

P. 002/057

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 JAN 30 PM 2:58

FOSTER MALISH BLAIR & COWAN, L.L.P.

ATTORNEYS AND COUNSELORS AT LAW
A REGISTERED LIMITED LIABILITY PARTNERSHIP

1403 WEST SIXTH STREET
AUSTIN, TEXAS 78703
(512) 476-8591
FAX: (512) 477-8657

Jennifer L. Washington, CP
Paralegal

CHIEF CLERKS OFFICE

WRITER'S EMAIL:

jennifer@foxtormalish.com

January 30, 2008

LaDonna Castanuela, Chief Clerk
Office of the Chief Clerk, MC105
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F
Austin, Texas 78753

*Via Facsimile (512) 239-3311 and Via
First-Class Mail*

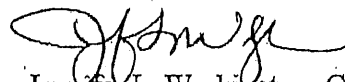
RE: SOAH Docket No. 582-06-0839; TCEQ Docket No. 2005-1510-MSW; Proposed Permit No. 2320; *Application of Roy Eugene Donaldson II for a Permit to Authorize Texas Organic Recovery to Compost Municipal Sewage Sludge, Septage, and Grease Trap Waste.*

Dear Ms. Castanuela:

Regarding the above-referenced docket, please find enclosed **Applicant's Exceptions to Initial Proposal for Decision**. The original and copy are being mailed. Please file and return a file-marked copy to this office; a self-addressed, stamped envelope will be enclosed.

Thank you for your time and assistance. If you should have any questions, please do not hesitate to call.

Very truly yours,



Jennifer L. Washington, CP
Paralegal

Enclosures

cc: Honorable Cassandra J. Church
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, TX 78701
Via Fax: (512) 475-4994 and Via CM/RRR

SOAH DOCKET NO. 582-06-0839
TCEQ DOCKET NO. 2005-1510-MSW
PROPOSED PERMIT NO. 2320

 COPY

APPLICATION OF ROY EUGENE
DONALDSON II FOR A PERMIT TO
AUTHORIZE TEXAS ORGANIC
RECOVERY TO COMPOST
MUNICIPAL SEWAGE SLUDGE,
SEPTAGE, AND GREASE TRAP
WASTE

§ BEFORE THE STATE OFFICE
§
§
§ OF
§
§
§ ADMINISTRATIVE HEARINGS

CHIEF CLERKS OFFICE

2008 JAN 31 PM 2:00

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

APPLICANT'S EXCEPTIONS TO INITIAL PROPOSAL FOR DECISION

The ALJs initial proposal for decision ("PFD") recommends that Texas Organic Recovery ("TOR") be denied a permit to compost because:

- (1) TOR was unable to meet its burden of proof that the liner currently in position under the composting area met TCEQ requirements and neither the application nor the draft permit set out a timetable or plan for reconstructing the liner (PFD 24, 25); and
- (2) visual and odor inspection of the grease trap waste and compost components, and inspection of shipper manifests (PFD at 29) despite meeting the minimum requirements of rules, was insufficient to prevent the delivery to and application of unauthorized materials at the site (PFD at 29) – presumably because meeting the minimum standards will not provide the required environmental safeguards (PFD 11)

TOR respectfully requests that the proposal be modified to recommend that the permit be denied *unless* the liner under the composting area is reconstructed and tested as described in the liner handbook and the draft permit. This approach is consistent with: OPIC's recommendation; that of Protestant's expert, Pierce Chandler; and TCEQ practice in similar situations.

TOR also respectfully requests that the proposal be modified to recognize that TOR's site operating plan meets the minimum requirements for inspection of the compost materials found in the rules. To maintain the existing findings and recommendations on this issue will hold TOR to standards over and beyond what is required by the rules and TCEQ precedent, and will result in arbitrary and capricious deviations from the TCEQ's decisions in similar cases.

Recommendations regarding the liner and groundwater protection

While TOR can understand the ALJ's finding that there was insufficient information to allow them to conclude that the *existing* liner meets the requirements, the appropriate recommendation should *be to condition the granting of the permit upon re-constructing the liner to meet the standards set out in the liner handbook*. The draft permit addresses liner issues in a single section, and provides that the facility must have a liner system installed compliant with the rules in order to operate (Draft Permit, Ex. A4, p. 5, sec. C), and TOR explained that it would construct or re-construct the liner as necessary to comply. (Tr. at 30). Page 33 of the application describes how the liner will have to be reconstructed as a result of enlarging the retention pond (which will now replace some of the area that was used for composting operations). While the description is included with the discussion of surface water protection, the same construction techniques and specifications are applicable to both the compost area liner and the pond liner, and should be read to apply to *all* of the liner.

It seems that the ALJs found the lack of a timetable or plan most troublesome. But neither the application's nor the draft permit's lack of a timetable or plan for reconstructing the liner (PFD 24, 25) should be fatal to the granting of the permit. A plan is required for the pond because it must be built to certain dimensions to contain the requisite volume. No such similar plan is needed for the liner for the rest of the composting area because it is essentially just a sheet of compacted clay or soil under the composting area, and liner handbook sets out the specifications for such a liner in explicit detail.

Accordingly, it would appropriate to revise the recommendation on this issue along the following lines:

"The permit should be denied unless the liner under composting area is reconstructed in accordance with the Liner Handbook."

This approach is consistent with OPIC's recommendation:

The draft permit, however, requires installation and verification of an adequate liner for the pond and the composting areas. If language is added to specifically reference Appendix K of the application, OPIC finds that the Provision of IV(C)(1) and Provision IV(E) sufficiently require a liner that meets 30 TAC section 332.47(6)(C)..... OPIC Closing Argument at 8.

Protestants' expert, Pierce Chandler, similarly concedes that the burden of proof would be met if the liner is reconstructed to comply with the draft permit.

Recommendations regarding prevention of the delivery and application of unauthorized and prohibited materials at the site

The applicable rule here is 30 TAC § 332.45 (3), which sets the minimum standard that "Delivery of unauthorized or prohibited materials shall be prevented. *As a minimum there shall be one employee on-site at all times inspecting each delivery of feedstock* to insure there is no unauthorized or prohibited material incorporated into the feedstock." Note that the requirement is for an *inspection*; there simply is no requirement for random sampling of the incoming materials, nor a requirement that there be a lab on site, as Protestants suggest.

The TCEQ is very competent at setting out exactly what it means; for example, look at the extensive rules on end product testing (30 TAC.332.45(11)) that set out in excruciating detail what is required. Reading a requirement of random sampling and laboratory analysis into the rule will subject composting to greater scrutiny than is applied to waste streams going to the landfill, when the fact of the matter is that the rule understands there just aren't that many bad things in such significant concentrations to warrant such testing. All that's needed is a visual inspection to make sure that grease trap waste from the Texas Chili Parlour is what's coming in, as opposed to used motor oil from Jiffy Lube. This is easily done by visual and odor inspection.

Additional requirements are simply not in the rules, and it defies common sense, and the policy supporting composting, to suggest that is necessary. Composting sites are no more required to verify the chemical composition of the waste stream feedstocks coming to their facilities than landfills are.

As indicated by the fact that the rule requires no more than visual inspection, it is also TCEQ's practice to date to require no more than visual inspection to prevent the delivery and application of unauthorized materials. Of the three composting permits that the TCEQ was able to identify for TOR as having completed the permitting process, all three identify only visual inspection as the means to prevent delivery and application of unauthorized materials.¹ Copies are attached as

¹Wholearth Organic Composting's Application to Modify Site Development Plan, MSW Permit 2317 WWW No. 11477666, permit granted Dec. 22, 2006;

J-V Dirt + Loam's Composting Facility's Application for Type V-RC Municipal Solid Waste Permit, MSW Permit 2310, TCEQ Docket 2004-2120-MSW (permit granted Mar. 15, 2005);

Exhibit 1. To require TOR to use methods other than visual inspection while the rules require nothing more, and where those composting permits the TCEQ has issued so far require nothing more than visual inspection, would be arbitrary and capricious.

For these reasons, TOR respectfully requests the PFD be modified to recommend that the permit be granted conditioned upon TOR being asked to reconstruct the compost area liner and to further recommend that TOR has met the minimum requirements for preventing the delivery and application of unauthorized materials.

Respectfully submitted,

Foster Malish & Cowan, L.L.P.
1403 West Sixth Street
Austin, Texas 78703
Phone: (512) 476-8591
Fax: (512) 477-8657

By: Chris Malish (ME)
Christopher Malish
State Bar No. 00791164
ATTORNEYS FOR APPLICANT

Don Tol Compost Facility's Application for Type V-RC Municipal Solid Waste Permit,
MSW Permit 2318, (permit granted Feb. 7, 2005).

CERTIFICATE OF SERVICE

I hereby certify that a photocopy of the foregoing document was forwarded via fax and certified mail, return receipt requested, to the following on the 30th day of January, 2008:

Honorable Cassandra J. Church
State Office of Administrative Hearings
P.O. Box 13025
Austin, TX 78711-3025
Fax: (512) 475-4994

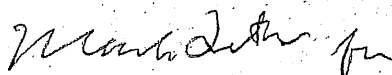
Honorable Roy G. Scudday
State Office of Administrative Hearings
P.O. Box 13025
Austin, TX 78711-3025
Fax: (512) 475-4994

J.D. Head
Fritz, Byrne, Head & Harrison, LLP
98 San Jacinto Blvd., Suite 2000
Austin, TX 78701
Fax: (512) 477-5267

Emily Collins, Public Interest Counsel, MC-103
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-6377

Steve Shepherd, Legal Counsel, MC-173
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-0606

Les Trobman, General Counsel, MC-101
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-5533



Chris Malish

DON TOL COMPOSTING FACILITY

MSW PERMIT NO. 2318

DON TOL COMPOSTING FACILITY

MSW PERMIT NO. 2318

ATTACHMENT SUMMARY

Permit Issued Feb 7, 2005 – Page 3 of 10 and Attachment A incorporates application materials

Permit Application - Page 8, Section 4.6 provides that “any unauthorized or prohibited material is visually screened at the composting facility.” “Trained personnel will perform the inspection for every incoming load of material.”



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT SITE
issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

MSW Permit No. 2318

Site Operator: Aqua-Zyme Services, Inc.
P.O. Box 489
Van Vleck, Texas 77482

Site Owner: Aqua-Zyme Services, Inc.

Facility Name: Don Tol Compost Facility
FM 1301 & CR 101
Boling, Wharton County, TX

Classification of Site: Type V-RC Municipal Solid Waste Permit

The permittee is authorized to operate a resource recovery and composting facility for composting of municipal sewage sludge, septage, grease trap waste, and positively sorted material (paper, cardboard, wood, and organic food matter) in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and Orders of the Commission and laws of the State of Texas. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality (TCEQ). This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with the Texas Health & Safety Code Chapter 361 and Title 30 Texas Administrative Code (30 TAC) Chapter 332.

ISSUED DATE: FEB 07 2005

A handwritten signature in dark ink, appearing to be "D. R. H. H.", written over a horizontal line.

For the Commission

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Wharton County
Don Tol Composting Facility
MSW Permit No. 2318

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I. Size and Location of Facility

A. The Don Tol Compost Facility is located at the intersection of Farm to Market Road 1301 and County Road 101, approximately 4 miles south of Boling, in Wharton County. The total permitted facility boundary is approximately 20.0 acres within a 125 acre tract of land.

B. Coordinates and Elevation of the Permanent Site Benchmark:

| | |
|------------|--------------------------------------|
| Latitude: | 29° 13.40' N |
| Longitude: | 95° 55.40' W |
| Elevation: | 70.0 feet above mean sea level (msl) |

II. Incorporated Application Materials

This permit is based on and the site owner/operator shall follow the permit application received January 23, 2004, declared administratively complete April 19, 2004, revised August 25, 2004, and October 25, 2004. These application submittals are hereby approved subject to the terms of this permit, the rules and regulations, and any orders of the TCEQ. These application materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these elements shall become conditions of this permit upon the date of approval by the Commission.

III. Facility and Operations Authorized

A. Days and Hours of Operation

The facility is authorized to operate 24 hours per day, 7 days per week. Routine hours will be 8:00 a.m. to 5:00 p.m. Monday through Friday and on Saturdays as needed. The proposed facility gate will normally be open during routine operating hours and will be locked at other times when site personnel are not present.

B. Feedstocks Authorized at this Facility

The permittee is authorized to operate a Type V-RC resource recovery and composting facility for composting of municipal sewage sludge, septage, grease trap waste, and positively sorted material (paper, cardboard, wood, and organic food matter).

C. Materials Prohibited at This Facility

Any feedstock material not listed in Part III. B. of this permit is prohibited at this facility.

D. Operations Authorized

The following operations are authorized and are subject to the limitations contained herein. They shall be constructed, operated, and maintained in accordance with the conditions of this permit and shall be managed in a manner to protect human health and the environment.

All composting activities subject to permitting are to be confined to the following operations, which shall include associated units, structures, appurtenances, and improvements:

1. A Type V-RC municipal solid waste composting facility consisting of a total permitted boundary of approximately 20.0 acres; and
2. Access roads, office, diversion berms and temporary drainage channels, permanent drainage structures, stormwater management control structures, liners, groundwater monitoring well system, liquid feedstock unloading/dewatering area, liquid feedstock storage tanks, tipping/washrack area, and other improvements.

E. Changes

Any proposed facility changes must be authorized in accordance with 30 TAC Chapters 305 and 332.

IV. Facility Design, Construction, and Operation

A. General Requirements

1. Facility design, construction, and operation must comply with this permit, TCEQ rules (including the operational standards in 30 TAC Section 332.45), and the Site Development Plan.
2. The composting facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the permit boundary of the facility and to prevent inundation or discharge from the areas surrounding the facility components. The liquid feedstock unloading/dewatering area and storage tanks, tipping/wash-rack area, composting pad, curing pad, and storage ponds shall have a containment system that will collect spills and incidental precipitation in such a manner as to:
 - a. Preclude the release of any contaminated runoff, spills, or precipitation;
 - b. Prevent washout of any compost by a 25 year, 24 hour rainfall event; and
 - c. Prevent run-on into the composting and curing pads from off-site areas.
3. The facility shall be designed and operated so as not to cause a violation of:
 - a. The requirements of the Texas Water Code §26.121;
 - b. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements in §402 as amended and the Texas Pollutant Discharge

Elimination System (TPDES);

- c. The requirements under the Federal Clean Water Act §404, as amended; and
 - d. Any requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act §208 or §319, as amended.
4. The permittee shall obtain a certification by a Licensed Texas Professional Engineer that the facility has been constructed as designed and is in general compliance with the regulations upon permit approval, and shall maintain that certification on-site available for inspection by the Commission.
 5. Upon permit approval, the facility shall be inspected by the TCEQ to determine compliance with the permit.

B. Management of Contaminated Water, Leachate, and Gas Condensate

1. Leachate is defined in 30 TAC §332.2(27) as liquid which has come in contact with or percolated through materials being stockpiled, processed, or awaiting removal and which has extracted, dissolved or suspended materials. Leachate also includes condensate from gases resulting from the composting process. All leachate, gas condensate, and contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §§332.4 (General Requirements) and 332.45 (Operational Requirements).

C. Liner

1. A liner system pursuant to 30 TAC §332.47(6)(C)(i) must be installed in all feedstock receiving, mixing, composting, post-processing, screening, and storage areas. The lined surface shall be covered with a material designed to withstand normal traffic from the composting operations. The liner shall be constructed in accordance with and must meet or exceed the specifications in the application materials.

D. Ground Water Monitoring System

1. The groundwater monitoring system shall be designed and installed such that the system will reasonably assure detection of any contamination of the groundwater before it migrates beyond the boundaries of the site. The ground water monitoring system shall be constructed and operated in accordance with the application materials.
2. Monitoring wells shall be sampled in accordance with the monitoring program defined in 30 TAC §332.47(6)(C)(ii)(II) and the application materials. The

frequency of ground water sampling and reporting of data collected from each sampling event shall be in accordance with 30 TAC §332.47(6)(C)(ii)(II) and the application materials.

E. Liner Evaluation Reports

1. Liner installation and testing shall be in accordance with the application materials. Liner Evaluation Report shall be submitted to the TCEQ in accordance with the application materials.

F. Employee Training

1. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. At least one individual who supervises or manages the operations of the facility must meet the qualifications of 30 TAC §332.45(12) regarding a certified compost operator. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility.

V. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 37 and Chapter 332.
- B. The permittee shall provide financial assurance mechanism(s) for the cost of closure in an amount not less than \$503,044.86 (2004 dollars). The mechanism(s) shall be submitted to the Commission within 60 days prior to the receiving of any materials for processing. Financial assurance for closure shall be secured and maintained in compliance with 30 TAC Chapter 37.
- C. The permittee shall annually adjust closure cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC§37.131.
- D. If the facility's closure plan is modified, the permittee shall provide new cost estimates in current dollars, which meet the requirements 30 TAC Chapter 37 and 30 TAC§332.47(9). Modifications shall be made pursuant to 30 TAC§305.70 and shall adjust financial assurance in accordance with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit and in compliance with the provisions contained within this permit.

VI. Facility Closure

- A. Closure shall commence:

1. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of the permit or violation of State or Federal regulations;
 2. Upon abandonment of the site;
 3. Upon direction of the Executive Director for failure to secure and maintain an adequate bond or other financial assurance as required; or
 4. Upon permittee's notification to the Commission that the facility will no longer operate.
- B. The facility shall be closed in accordance with the requirement of the closure plan in the application materials (Appendix 9 Closure Cost Estimate).

VII. Other Permit Conditions

- A. Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- B. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act and is grounds for an enforcement action, revocation, or suspension.
- C. All discharge of stormwater shall be in accordance with the U.S. Environmental Protection Agency NPDES requirements and requirements of the TPDES.
- D. The tracking of mud off-site onto any public right-of-way shall be minimized.
- E. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- F. The permittee shall retain the right of entry onto the site until completion of closure.
- G. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until completion of closure.
- H. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.

- I. The permittee shall be required to meet all performance standards required by the permit, the Texas Administrative Code, local, State, and Federal laws regardless of the specific design details contained in the application materials.
- J. If differences arise between the rules, regulations, and permit provisions and the incorporated Site Development Plan application materials, then the rules, regulations, and permit provisions shall prevail.
- K. The permittee shall comply with the requirements in 30 TAC §332.8 (Air Quality Requirements) as applicable.
- L. All bulk and feedstock transportation vehicles using this facility will be required to have adequate covers or other means of containment of these materials. The adequacy of covers or containment of incoming materials will be checked at the facility entrance.
- M. The owner or operator shall take action to ensure that vehicles hauling materials to the site are enclosed or provided with a tarpaulin, net, or there are means to properly secure the load in order to prevent the escape of any part of the load by blowing or spilling. Such actions include posting signs, reporting offenders to law enforcement officers, adding surcharges, or similar measures. The owner or operator shall be responsible for the cleanup of materials spilled along and within the right-of-way of public access roads serving the site for a distance of two miles in either direction from the site entrances used for material delivery.
- N. On-site road conditions shall be maintained in suitable condition for site traffic by using crushed stone or other suitable materials and equipment. Dust from on-site and other access roadways shall not become a nuisance to surrounding areas.
- O. The permittee shall comply with the record-keeping requirements in 30 TAC §332.46.

VIII. Incorporated Regulatory Requirements

- A. To the extent applicable, the requirements of 30 TAC Chapters 281, 305, and 332 are adopted by reference and are hereby made provisions and conditions of this permit.
 - B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.
-

ATTACHMENT A

Attachment A consists of the permit application submittals as referenced in Part II of this permit.

ATTACHMENT B

Minor Amendments, Modifications, and Corrections
to MSW Permit No. 2318

[In lieu of this sheet, the agency document authorizing the permit change may be used.]

Description of Permit Change:

Permit Sections Revised:

List of Items Revised in the Site Development Plan of the Permit Application which are Incorporated by
Reference in Permit Provision II:

2318/CP



RECEIVED

JUN 16 2005

TCEQ
CENTRAL FILE ROOM

PERMIT APPLICATION
MUNICIPAL SOLID WASTE
COMPOST FACILITY

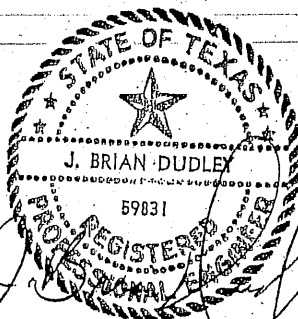
DON TOL COMPOST FACILITY
Wharton County, Texas

REVISION 2
22 OCTOBER 2004

Prepared for:

Aqua-Zyme Services, Inc.
J. W. Massey,
P.O. Box 489
Van Vleck, Texas 77482

This document is released for permit review only and is not complete for construction.



10/22/04



All quality assurance data and observations will be submitted to TCEQ as a soil and liner evaluation report. The submittal will include a site map which depicts the site grid system, graphic scale, sample locations, currently active area and area covered by the current submittal. Any areas and dates of previous approvals will be noted. Prior to accepting any feedstock in areas outside of Phase 1, a Texas-Registered Professional Engineer will certify that the Phase 2 facility has been constructed as designed and in general compliance with the regulations. This certification will be maintained at the Aqua-Zyme offices in Van Vleck Texas, available for inspection by TCEQ. The regional TCEQ office will also be notified for a site inspection.

4.6 PROHIBITED AND UNAUTHORIZED MATERIAL (30 TAC §332.45(10))

Any unauthorized or prohibited material is visually screened at the composting facility. Prohibited substances are fungicides, herbicides, insecticides or other pesticides that contain constituents listed in 40 CFR Part 261, Appendix VIII-Hazardous Constituents or on the Hazardous Substance List as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). These substances shall not be applied to or incorporated into feedstock, in-process materials, or processed materials.

Trained personnel will perform the inspection for every incoming load of material. If any prohibited or unauthorized materials are found, the load will be rejected and the transporter will be responsible for removal. Aqua-Zyme will provide continuing training to its employees and transporters on visual screening procedures on a semi-annual basis.

WHOLEARTH ORGANIC
COMPOSTING

MSW PERMIT NO. 2317

ATTACHMENT SUMMARY

Revision to original permit granted December 14, 2006.

Original permit not found at TCEQ Central Records; however, since revision was granted can be assumed that the permit was issued.

Final draft permit issued January 13, 2005

Draft permit incorporates application materials at Part II on page 3 of 10 and Attachment A.

Application as revised December 20, 2004, at Section 4.3 provides:
“Delivery trucks entering the property are inspected by the Yard Master for the presence of unauthorized materials during unloading.”

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 14, 2006

Mr. Jim Allred
Wholearth Organic Composting
20805 Lamm Road
Elmendorf, Texas 78112

Re: Municipal Solid Waste (MSW) - Bexar County
Wholearth Organic Composting - MSW Permit No. 2317
Permit Modification - Site Development Plan
WWC No. 11477666; RN101478071 / CN601670862

RECEIVED
DEC 22 2006
TCEQ
CENTRAL FILE ROOM

Dear Mr. Allred:

We have reviewed your application for a municipal solid waste permit modification dated September 5, 2006, and received on September 29, 2006, and the revisions dated and received December 5, 2006, requesting authorization to replace outdated analytical methodologies with more current methods in MSW Permit No. 2317. The information presented is technically sufficient for a municipal solid waste permit modification.

Enclosed is a copy of the above referenced modification which is now part of your permit and should be attached thereto as part of Attachment A and Attachment B. The documentation prepared and submitted to support the modification request shall be considered as requirements of the permit.

If you have questions concerning this matter, please contact Mr. Kenneth D. May at (512) 239-6203. When addressing written correspondence, please use Mail Code 124 (MC 124).

This action is taken under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

Sincerely,

A handwritten signature in cursive script, reading "Richard C. Carmichael".

Richard C. Carmichael, Ph.D., P.E.
Manager, Municipal Solid Waste Permits Section
Waste Permits Division

RCC/KDM/ff

cc: Mr. Mark Hanson, P.G., DCH Environmental Consultants, L.P., Sugarland, Texas

Enclosure

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



MODIFICATION TO MUNICIPAL SOLID WASTE PERMIT NO. 2317 WHOLEARTH ORGANIC COMPOSTING

Municipal Solid Waste Permit No. 2317 is hereby modified as follows:

Description of Change: Removal of outdated colorimetric analytical methods and the addition of provisions for laboratory analytical methods with greater laboratory Quality Assurance and Quality Control.

The details of this permit modification are contained in the application dated September 5, 2006, and received on September 29, 2006, and the revisions dated and received December 5, 2006.

Part of Permit Modified:

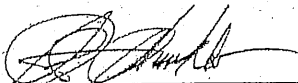
Site Development Plan, Table 3, Groundwater Sampling Parameters.

This modification is a part of Permit No. 2317 and should be attached thereto.

APPROVED, ISSUED, AND EFFECTIVE in accordance with Title 30 Texas Administrative Code Section (§)305.70(l) and Chapter 332.

ISSUED DATE:

DEC 14 2006


For the Commission

MSW/2317/PA

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 13, 2005

Messrs. Howard Hale and Jim Allred
Wholearth Organic Composting
20805 Lamm Road
Elmendorf, TX 78112

RECEIVED

Re: Municipal Solid Waste - Bexar County
Wholearth Organic Composting - MSW Permit Application No. 2317
Technically Complete
RN101478071, CN601670862

TCEQ
CENTRAL FILE ROOM

Dear Messrs. Hale and Allred:

The technical review of the subject municipal solid waste permit application has been completed, and it has been determined by the Municipal Solid Waste (MSW) Permits Section that the permit application is technically complete. Therefore, for all administrative purposes, the subject application shall be declared technically complete as of the date of this letter.

A copy of the final draft permit, the Executive Director's Preliminary Decision, the Technical Summary, and the compliance history are enclosed. A copy of the technically complete permit application, the final draft permit, and the Executive Director's Preliminary Decision must be placed at the San Antonio Public Library, 600 Soledad, San Antonio, Texas 78205 for public viewing/copying as will be indicated in the "Notice of Application and Preliminary Decision." These documents must be available at this location beginning on the first day of newspaper publication. The notice and instructions will be sent to you by our Chief Clerk.

If you have any questions concerning this letter or if we may be of any assistance to you regarding municipal solid waste, you may contact Mr. Gale L. Baker, P.G., at MC-124, P.O. Box 13087, Austin, Texas 78711; telephone number (512) 239-6730.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard C. Carmichael".

Richard C. Carmichael, Ph.D., P.E., CIH
Manager, Municipal Solid Waste Permits Section
Waste Permits Division

RCC/GLB/fp

cc: Ms. Robin D. Cosgrove, P.E., Geomatrix Consultants, Inc., Austin
Mr. Mark P. Hemingway, P.G., Geomatrix Consultants, Inc., Austin
Ms. Leigh Ing, Leigh Ing Consulting, Austin

Enclosures



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT SITE
issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

MSW Permit No. 2317

Site Operator: Wholearth Organic Composting
20805 Lamm Road
Elmendorf, Texas 78112

Site Owner: Hueland H. Hale and Jimmy Allred
20805 Lamm Road
Elmendorf, Texas 78112

Facility Name: Wholearth Organic Composting

Classification of Site: Type V-RC Municipal Solid Waste Permit

The permittee is authorized to operate a resource recovery and composting facility for composting of grease trap waste and positively sorted organic material (yard trimmings, vegetative food matter, and wood) in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and Orders of the Commission and laws of the State of Texas. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality (TCEQ). This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with the Texas Health & Safety Code Chapter 361 and Title 30 Texas Administrative Code (30 TAC) Chapter 332.

ISSUED DATE:

For the Commission

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Bexar County
Wholearth Organic Composting
MSW Permit No. 2317

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I. Size and Location of Facility

A. The Wholearth Organic Composting Facility is located less than one mile southeast of the intersection of Interstate Highway (IH) 37 and Loop 1604, and seven miles southwest of Elmendorf, Texas in Bexar County (20805 Lamm Road, Elmendorf, Texas 78112). The total permitted facility boundary is approximately 28.6 acres.

B. Elevation and Coordinates of Current Permanent Benchmark:

Latitude: N 29° 12' 33"
Longitude: W 98° 24' 13"
Elevation: 532 feet above mean sea level (msl)

II. Incorporated Application Materials

This permit is based on and the site owner/operator shall follow the permit application submittals received on January 22, 2004, revisions received on August 8, 2004, revisions received on December 1, 2004, revisions received on December 20, 2004, and revisions received on December 23, 2004. These application submittals are hereby approved subject to the terms of this permit, the rules and regulations, and any orders of the TCEQ. These application materials are incorporated into this permit by reference in Attachment A. as if fully set out herein. Any and all revisions to these elements shall become conditions of this permit upon the date of approval by the Commission.

III. Facility and Operations Authorized

A. Days and Hours of Operation

The operating hours may be 11 hours per day, 5 days per week. The gate will normally be open from 7:00 am to 6:00 pm, Monday through Friday, and closed Saturday and Sunday.

B. Feedstocks Authorized at this Facility

The permittee is authorized to operate a Type V-RC resource recovery and composting facility for composting of grease trap waste and positively sorted organic material (yard trimmings, vegetative food matter, and wood).

C. Materials Prohibited at This Facility

Any materials not listed in Part III. B. of this permit are prohibited at this facility.

D. Operations Authorized

The following operations are authorized and are subject to the limitations contained herein. They shall be constructed, operated, and maintained in accordance with the conditions of this permit and shall be managed in a manner to protect human health and the environment. All composting activities subject to permitting are to be confined to the following operations, which shall include associated units, structures, appurtenances, and improvements:

1. A Type V-RC municipal solid waste composting facility consisting of a total permitted boundary of approximately 28.6 acres; and
2. Access roads, office, diversion berms and temporary drainage channels, permanent drainage structures, stormwater management control structures, liners, groundwater monitoring well system, and other improvements.

E. Changes

Any proposed facility changes must be authorized in accordance with 30 TAC Chapters 305 and 332.

IV. Facility Design, Construction, and Operation

A. General Requirements

1. Facility design, construction, and operation must comply with this permit, TCEQ rules (including the operational standards in 30 TAC Section 332.45), and the Site Development Plan.
2. The composting facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the permit boundary of the facility and to prevent inundation or discharge from the areas surrounding the facility components. The liquid feedstock unloading area and storage tanks, tipping area, dewatering area, composting pad, curing pad, and storage ponds shall have a containment system that will collect spills and incidental precipitation in such a manner as to:
 - a. Preclude the release of any contaminated runoff, spills, or precipitation;
 - b. Prevent washout of any compost by a 25 year, 24 hour rainfall event; and
 - c. Prevent run-on into the composting and curing pads from off-site areas.
3. The facility shall be designed and operated so as not to cause a violation of:
 - a. The requirements of the Texas Water Code §26.121;
 - b. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements in §402 as amended and the Texas Pollutant Discharge Elimination System (TPDES);
 - c. The requirements under the Federal Clean Water Act §404, as amended; and
 - d. Any requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act §208 or §319, as amended.

4. The permittee shall obtain a certification by a Licensed Texas Professional Engineer that the facility has been constructed as designed and is in general compliance with the regulations, and shall maintain that certification on-site available for inspection by the Commission.

B. Management of Contaminated Water, Leachate, and Gas Condensate

1. Leachate is defined in 30 TAC §332.2(27) as liquid which has come in contact with or percolated through materials being stockpiled, processed, or awaiting removal and which has extracted, dissolved or suspended materials. Leachate also includes condensate from gases resulting from the composting process. All leachate, gas condensate, and contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §§332.4 (General Requirements) and 332.45 (Operational Requirements).

C. Liner

1. A liner system pursuant to 30 TAC §332.47(6)(C)(i) was constructed at this facility in February 2003 as part of the requirements of MSW Registration No. 42019. The storage pond, composting pad, and curing pad was lined with a 30-mil HDPE geomembrane liner and overlain with 2 feet of protective cover soils, covering a total area of 6.5 acres.

D. Ground Water Monitoring System

1. The groundwater monitoring system shall be designed and installed such that the system will reasonably assure detection of any contamination of the groundwater before it migrates beyond the boundaries of the site. The ground water monitoring system shall be constructed and operated in accordance with the application materials.
2. Monitoring wells shall be sampled in accordance with the monitoring program defined in 30 TAC §332.47(6)(C)(ii)(II) and the application materials. The frequency of ground water sampling and reporting of data collected from each sampling event shall be in accordance with 30 TAC §332.47(6)(C)(ii)(II) and the application materials.

E. Liner Evaluation Reports

1. A Geomembrane Liner Evaluation Report (GLER) was received by the TCEQ for the storage pond, composting pad, and curing pad on April 9, 2003, with revisions received on April 18, 2003, as part of the requirements of MSW Registration No. 42019. The GLER was approved by TCEQ on April 23, 2003.

F. Employee Training

1. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. At least one individual who supervises or manages the

operations of the facility must meet the qualifications of 30 TAC §332.45(12) regarding a certified compost operator. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility.

V. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 37 and Chapter 332.
- B. Within 45 days after issuance of the permit, the permittee shall provide financial assurance mechanism(s) for the cost of closure in an amount not less than \$297,635 (2004 dollars). Financial assurance for closure shall be secured and maintained in compliance with 30 TAC Chapter 37.
- C. The permittee shall annually adjust closure cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC§37.131.
- D. If the facility's closure plan is modified, the permittee shall provide new cost estimates in current dollars, which meet the requirements 30 TAC Chapter 37 and 30 TAC §332.47(9). Modifications shall be made pursuant to 30 TAC§305.70 and shall adjust financial assurance in accordance with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit and in compliance with the provisions contained within this permit.

VI. Facility Closure

- A. Closure shall commence:
 - 1. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of the permit or violation of State or Federal regulations;
 - 2. Upon abandonment of the site;
 - 3. Upon direction of the Executive Director for failure to secure and maintain an adequate bond or other financial assurance as required; or
 - 4. Upon permittee's notification to the Commission that the facility will no longer operate.
- B. The facility shall be closed in accordance with the requirement of the closure plan in the application materials (Appendix H Closure Plan and Cost Estimate).

VII. Other Permit Conditions

- A. Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- B. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act and is grounds for an enforcement action, revocation, or suspension.
- C. All discharge of stormwater shall be in accordance with the U.S. Environmental Protection Agency NPDES requirements and requirements of the TPDES.
- D. The tracking of mud off-site onto any public right-of-way shall be minimized.
- E. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- F. The permittee shall retain the right of entry onto the site until completion of closure.
- G. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until completion of closure.
- H. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- I. The permittee shall be required to meet all performance standards required by the permit, the Texas Administrative Code, local, State, and Federal laws regardless of the specific design details contained in the application materials.
- J. If differences arise between the rules, regulations, and permit provisions and the incorporated Site Development Plan application materials, then the rules, regulations, and permit provisions shall prevail.
- K. The permittee shall comply with the requirements in 30 TAC §332.8 (Air Quality Requirements) as applicable.
- L. All bulk and feedstock transportation vehicles using this facility will be required to have adequate covers or other means of containment of these materials. The adequacy of covers or containment of incoming materials will be checked at the facility entrance.

- M. The owner or operator shall take action to ensure that vehicles hauling materials to the site are enclosed or provided with a tarpaulin, net, or there are means to properly secure the load in order to prevent the escape of any part of the load by blowing or spilling. Such actions include posting signs, reporting offenders to law enforcement officers, adding surcharges, or similar measures.
- N. On-site road conditions shall be maintained in suitable condition for site traffic by using crushed stone or other suitable materials and equipment. Dust from on-site and other access roadways shall not become a nuisance to surrounding areas.
- O. The permittee shall comply with the record-keeping requirements in 30 TAC §332.46.

VIII. Incorporated Regulatory Requirements

- A. To the extent applicable, the requirements of 30 TAC Chapters 281, 305, and 332 are adopted by reference and are hereby made provisions and conditions of this permit.
- B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.

ATTACHMENT A

Attachment A consists of the permit application submittals as referenced in Part II of this permit.

ATTACHMENT B

Minor Amendments, Modifications, and Corrections
to MSW Permit No.2317

[In lieu of this sheet, the agency document authorizing the permit change may be used.]

Description of Permit Change:

Permit Sections Revised:

List of Items Revised in the Site Development Plan of the Permit Application which are Incorporated by
Reference in Permit Provision II:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

January 2005

DESCRIPTION OF APPLICATION

Applicant: Wholearth Organic Composting
MSW Permit Application No. 2317

Type: Type V-RC Municipal Solid Waste Permit

EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

The Executive Director of the Texas Commission on Environmental Quality has made the preliminary decision that municipal solid waste permit, MSW Permit No. 2317, to Wholearth Organic Composting, if issued, meets all statutory and regulatory requirements.

Name of Applicant: Wholearth Organic Composting

**APPLICATION FOR A PERMIT OR REGISTRATION TO OPERATE A
MUNICIPAL SOLID WASTE FACILITY
PART A APPLICATION FORM**

PERMIT/REGISTRATION APPLICATION NO. MSW 2317 (for TCEQ use).

Applicant Information

| | |
|---|---|
| Applicant Name: | Wholearth Organic Composting |
| Customer Reference Number - if known* (9 digits) | CN 601599194 (Hueland Hale) 601599186 (Jimmy Allred) |

* If you do not have this number, complete the customer information section of the Core Data Form (TCEQ-10400) and submit it with this application.

Facility Information

| | |
|---|------------------------------|
| Facility Name: | Wholearth Organic Composting |
| Regulated Entity Reference Number - if known* (9 digits) | RN 101478071 |

* If you do not have this number, complete the regulated entity information section of the Core Data Form (TCEQ-10400) and submit it with this application.

Applicant's Agent Information

| | | | | |
|----------------------------|-----------------|----------|----|-------|
| Authorized Agent's Name | Jim Allred | | | |
| Authorized Agent's Title | Owner | | | |
| Street or P.O. Box | 20805 Lamm Road | | | |
| (City)(County)(State)(Zip) | Elmendorf | Bexar | TX | 78112 |
| (Area Code)(Phone #) | 210 | 621-2411 | | |
| (Area Code)(FAX #) | 210 | 621-2456 | | |

Section 361.0666, Health and Safety Code, as added by HB2912 (effective September 1, 2001) requires an applicant for a permit for a new facility which accepts municipal solid waste to hold a public meeting in the county in which the proposed facility is to be located before the 45th day after the date the application is filed. Section 361.0666 also requires the applicant to publish notice of this public meeting at least once each week for the three weeks preceding the meeting. An affidavit certifying that notice was published in accordance with Section 361.0666 must be provided to the Commission.

If you have any questions about this meeting requirement, please contact the MSW Permits Section at (512) 239-6781 or see our website at:

<http://www.tnrcc.state.tx.us/permitting/wasteperm/mswperm/notice.html>.

Prepared January 22, 2004
Revised August 8, 2004
Revised December 1, 2004
Revised December 20, 2004

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RECEIVED

JAN 04 2005
WASTE PERMITS DIVISION
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

4.3 CONTROL OF UNLOADING, UNAUTHORIZED MATERIALS [§332.47(7)(D)]

Only the designated feedstocks will be accepted at the facility. As required by 30 TAC §332.45(7), a sign will be placed at the property entrance that indicates the type of facility, permit number, hours of operation, and allowable feedstocks.

Delivery trucks entering the property are inspected by the Yard Master for the presence of unauthorized materials during unloading. Loads determined to contain unprocessable, prohibited, or unauthorized materials are either refused, or the drivers are directed to remove the unacceptable material from the load and then remove them from the property. In the event that unprocessable, prohibited, or unauthorized materials are discovered after delivery, these materials will be removed from the facility and disposed of at an authorized municipal solid waste facility.

4.4 FIRE PREVENTION AND CONTROL PLAN [§332.47(7)(E)]

Bexar County adopted the 2003 International Fire Code on November 28, 2003. This Fire Prevention and Control Plan is intended to meet the requirements of this fire code.

Smoking is not permitted anywhere on the facility. The presence of the earthen berms surrounding the processing area will inhibit the spread of fire to or from the composting material. Fire lanes will be maintained around the facility, including feedstock storage tanks and processing areas. The potential for fires within the composting material will be limited by the maintenance of a moisture content near 60 percent. As required by the 2003 International Fire Code, bulking material storage piles and compost material piles will not exceed 25 feet in height, 150 feet in width, or 250 feet in length. All piles will be accessible by fire-fighting equipment via access roads. Storage piles will be located at least 10 feet from all property lines.

Water for fire fighting can be obtained rapidly from either the facility's retention pond or the municipal water supply piping. All employees will be instructed in fire fighting methods and the use of fire extinguishers. Equipment available on site for the use in fire fighting will include:

- fire extinguishers

J-V DIRT & LOAM

MSW PERMIT NO. 2310

ATTACHMENT SUMMARY

Permit granted March 15, 2005.

Permit incorporates application materials at Part II on page 3 of 10 and Attachment A.

Application at Section 5.4 provides: "The feedstock and wood bulking material will be visually inspected by trained personnel prior to acceptance."



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PERMIT FOR MUNICIPAL
SOLID WASTE MANAGEMENT SITE
issued under provisions of Texas
Health & Safety Code Ann.
Chapter 361 (Vernon)

MSW Permit No. 2310

TCEQ Docket No. 2004-2120-MSW

Site Operator:

J-V Dirt + Loam
3600 North FM973
Austin, Texas 78725

Site Owner:

B-S Cartage, Inc. dba J-V Dirt + Loam
3600 North FM973
Austin, Texas 78725

Facility Name:

J-V Dirt + Loam Composting Facility

Classification of Site:

Type V-RC Municipal Solid Waste Permit

The permittee is authorized to operate a resource recovery and composting facility for composting of municipal sewage sludge, septage, grease trap waste, animal manure and positively sorted material (paper, cardboard, wood, and vegetative food matter) in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and Orders of the Commission and laws of the State of Texas. Nothing in this permit exempts the permittee from compliance with other applicable rules and regulations of the Texas Commission on Environmental Quality (TCEQ). This permit will be valid until canceled, amended, or revoked by the Commission, or until the site is rendered unusable, whichever occurs first.

APPROVED, ISSUED AND EFFECTIVE in accordance with the Texas Health & Safety Code Chapter 361 and Title 30 Texas Administrative Code (30 TAC) Chapter 332.

ISSUED DATE: **MAR 15 2005**

A handwritten signature in cursive script, reading "Rachel Hartnett White".
For the Commission

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J-V Dirt + Loam Composting Facility
MSW Permit No. 2310

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| | Minor Amendments, Modifications, and Corrections to MSW Permit No. 2310 | 10 |
| I. | <u>Size and Location of Facility</u> | |
| A. | The J-V Dirt + Loam Composting Facility is located at 3600 North FM Road 973, approximately 0.7 miles south of the intersection of FM Road 969 and FM Road 973, in southeast Travis County. The total permitted facility boundary is approximately 80 acres. | |

B. Coordinates and Elevation of the Permanent Site Benchmark:

Latitude: N 30° 14.85'
Longitude: W 97° 37.06'
Elevation: 435.35 feet above mean sea level (msl)

II. Incorporated Application Materials

This permit is based on and the site owner/operator shall follow the permit application submittals received on July 21, 2003, revisions received on February 12, 2004, revisions received on April 28, 2004, revisions received on May 6, 2004, revisions received on May 24, 2004, and revisions received on May 26, 2004. These application submittals are hereby approved subject to the terms of this permit, the rules and regulations, and any orders of the TCEQ. These application materials are incorporated into this permit by reference in Attachment A as if fully set out herein. Any and all revisions to these elements shall become conditions of this permit upon the date of approval by the Commission.

III. Facility and Operations Authorized

A. Days and Hours of Operation

The operating hours may be 24 hours per day, 7 days per week. The gate will normally be open from 6:30 am to 7:00 pm, six days per week, and be locked at all other times.

B. Feedstocks Authorized at this Facility

The permittee is authorized to operate a Type V-RC resource recovery and composting facility for composting of municipal sewage sludge, septage, grease trap waste, animal manure, and positively sorted material (paper, cardboard, wood, and vegetative food matter).

C. Materials Prohibited at This Facility

Any material not listed in Part III. B. of this permit are prohibited at this facility.

D. Operations Authorized

The following operations are authorized and are subject to the limitations contained herein. They shall be constructed, operated, and maintained in accordance with the conditions of this permit and shall be managed in a manner to protect human health and the environment. All composting activities subject to permitting are to be confined to the following operations, which shall include associated units, structures, appurtenances, and improvements:

1. A Type V-RC municipal solid waste composting facility consisting of a total permitted boundary of approximately 80 acres; and

2. Access roads, office, diversion berms and temporary drainage channels, permanent drainage structures, stormwater management control structures, liners, groundwater monitoring well system, liquid feedstock unloading area, liquid feedstock storage tanks, tipping area, dewatering area, and other improvements.

E. Changes

Any proposed facility changes must be authorized in accordance with 30 TAC Chapters 305 and 332.

IV. Facility Design, Construction, and Operation

A. General Requirements

1. Facility design, construction, and operation must comply with this permit, TCEQ rules (including the operational standards in 30 TAC Section 332.45), and the Site Development Plan.
2. The composting facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste, contaminant, or pollutant beyond the permit boundary of the facility and to prevent inundation or discharge from the areas surrounding the facility components. The liquid feedstock unloading area and storage tanks, tipping area, dewatering area, composting pad, curing pad, and storage ponds shall have a containment system that will collect spills and incidental precipitation in such a manner as to:
 - a. Preclude the release of any contaminated runoff, spills, or precipitation;
 - b. Prevent washout of any compost by a 25 year, 24 hour rainfall event; and
 - c. Prevent run-on into the composting and curing pads from off-site areas.
3. The facility shall be designed and operated so as not to cause a violation of:
 - a. The requirements of the Texas Water Code §26.121;
 - b. Any requirements of the Federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements in §402 as amended and the Texas Pollutant Discharge Elimination System (TPDES);
 - c. The requirements under the Federal Clean Water Act §404, as amended; and
 - d. Any requirement of an area wide or statewide water quality management plan that has been approved under the Federal Clean Water Act §208 or §319, as amended.

4. The permittee shall obtain a certification by a Licensed Texas Professional Engineer that the facility has been constructed as designed and is in general compliance with the regulations prior to accepting any feedstock at the facility, and shall maintain that certification on-site available for inspection by the Commission.
5. Prior to the initial acceptance of any feedstocks, the facility shall be inspected by the TCEQ to determine compliance with the permit.

B. Management of Contaminated Water, Leachate, and Gas Condensate

1. Leachate is defined in 30 TAC §332.2(27) as liquid which has come in contact with or percolated through materials being stockpiled, processed, or awaiting removal and which has extracted, dissolved or suspended materials. Leachate also includes condensate from gases resulting from the composting process. All leachate, gas condensate, and contaminated water shall be handled, stored, treated, disposed of, and managed in accordance with 30 TAC §§332.4 (General Requirements) and 332.45 (Operational Requirements).

C. Liner

1. A liner system pursuant to 30 TAC §332.47(6)(C)(i) must be installed in all feedstock receiving, mixing, composting, post-processing, screening, and storage areas. The lined surface shall be covered with a material designed to withstand normal traffic from the composting operations. The liner shall be constructed in accordance with and must meet or exceed the specifications in the application materials.

D. Ground Water Monitoring System

1. The groundwater monitoring system shall be designed and installed such that the system will reasonably assure detection of any contamination of the groundwater before it migrates beyond the boundaries of the site. The ground water monitoring system shall be constructed and operated in accordance with the application materials.
2. Monitoring wells shall be sampled in accordance with the monitoring program defined in 30 TAC §332.47(6)(C)(ii)(II) and the application materials. The frequency of ground water sampling and reporting of data collected from each sampling event shall be in accordance with 30 TAC §332.47(6)(C)(ii)(II) and the application materials.

E. Liner Evaluation Reports

1. Liner installation and testing shall be in accordance with the application materials. Liner Evaluation Report shall be submitted to the TCEQ in accordance with the application materials.

F. Employee Training

1. All facility employees and other persons involved in facility operations shall be qualified, trained, educated, and experienced to perform their duties so as to achieve compliance with this permit. At least one individual who supervises or manages the operations of the facility must meet the qualifications of 30 TAC §332.45(12) regarding a certified compost operator. The permittee shall further ensure that personnel are familiar with safety procedures, contingency plans, the requirements of the Commission's rules and this permit, commensurate with their levels and positions of responsibility.

V. Financial Assurance

- A. Authorization to operate the facility is contingent upon compliance with provisions contained within the permit and maintenance of financial assurance in accordance with 30 TAC Chapter 37 and Chapter 332.
- B. The permittee shall provide financial assurance mechanism(s) for the cost of closure in an amount not less than \$693,380 (2003 dollars). The mechanism(s) shall be submitted to the Commission within 60 days prior to the receiving of any materials for processing. Financial assurance for closure shall be secured and maintained in compliance with 30 TAC Chapter 37.
- C. The permittee shall annually adjust closure cost estimates for inflation within 60 days prior to the anniversary date of the establishment of the financial assurance instrument pursuant to 30 TAC§37.131.
- D. If the facility's closure plan is modified, the permittee shall provide new cost estimates in current dollars, which meet the requirements 30 TAC Chapter 37 and 30 TAC§332.47(9). Modifications shall be made pursuant to 30 TAC§305.70 and shall adjust financial assurance in accordance with any financial assurance regulation that is adopted by the TCEQ subsequent to the issuance of this permit and in compliance with the provisions contained within this permit.

VI. Facility Closure

- A. Closure shall commence:
 1. Upon direction by the Executive Director of the TCEQ for failure to comply with the terms and conditions of the permit or violation of State or Federal regulations;
 2. Upon abandonment of the site;
 3. Upon direction of the Executive Director for failure to secure and maintain an adequate bond or other financial assurance as required; or
 4. Upon permittee's notification to the Commission that the facility will no longer operate.

- B. The facility shall be closed in accordance with the requirement of the closure plan in the application materials (Appendix G Closure Cost Estimate).

VII. Other Permit Conditions.

- A. Attachment B, consisting of minor amendments, modifications, and corrections to this permit, is hereby made a part of this permit.
- B. The permittee shall comply with all conditions of this permit. Failure to comply with any permit condition may constitute a violation of the permit, the rules of the Commission, and the Texas Solid Waste Disposal Act and is grounds for an enforcement action, revocation, or suspension.
- C. All discharge of stormwater shall be in accordance with the U.S. Environmental Protection Agency NPDES requirements and requirements of the TPDES.
- D. The tracking of mud off-site onto any public right-of-way shall be minimized.
- E. During construction and operation of the facility, measures shall be taken to control runoff, erosion, and sedimentation from disturbed areas. Erosion and sedimentation control measures shall be inspected and maintained at least monthly and after each storm event that meets or exceeds the design storm event. Erosion and sedimentation controls shall remain functional until disturbed areas are stabilized with established permanent revegetation. The permittee shall maintain the on-site access road and mud control devices in such a manner as to minimize the buildup of mud on the access road and to maintain a safe road surface.
- F. The permittee shall retain the right of entry onto the site until completion of closure.
- G. Inspection and entry onto the site by authorized personnel shall be allowed during the site operating life and until completion of closure.
- H. The provisions of this permit are severable. If any permit provision or the application of any permit provision to any circumstance is held invalid, the remainder of this permit shall not be affected.
- I. The permittee shall be required to meet all performance standards required by the permit, the Texas Administrative Code, local, State, and Federal laws regardless of the specific design details contained in the application materials.
- J. If differences arise between the rules, regulations, and permit provisions and the incorporated Site Development Plan application materials, then the rules, regulations, and permit provisions shall prevail.
- K. The permittee shall comply with the requirements in 30 TAC §332.8 (Air Quality Requirements) as applicable.

- L. All bulk and feedstock transportation vehicles using this facility will be required to have adequate covers or other means of containment of these materials. The adequacy of covers or containment of incoming materials will be checked at the facility entrance.
- M. The owner or operator shall take action to ensure that vehicles hauling materials to the site are enclosed or provided with a tarpaulin, net, or there are means to properly secure the load in order to prevent the escape of any part of the load by blowing or spilling. Such actions include posting signs, reporting offenders to law enforcement officers, adding surcharges, or similar measures. The owner or operator shall be responsible for the cleanup of materials spilled along and within the right-of-way of public access roads serving the site for a distance of two miles in either direction from the site entrances used for material delivery.
- N. On-site road conditions shall be maintained in suitable condition for site traffic by using crushed stone or other suitable materials and equipment. Dust from on-site and other access roadways shall not become a nuisance to surrounding areas.
- O. The permittee shall comply with the record-keeping requirements in 30 TAC §332.46.

VIII. Incorporated Regulatory Requirements

- A. To the extent applicable, the requirements of 30 TAC Chapters 281, 305, and 332 are adopted by reference and are hereby made provisions and conditions of this permit.
- B. The permittee shall comply with all applicable federal, state, and local regulations and shall obtain any and all other required permits prior to the beginning of any on-site improvements or construction approved by this permit.

ATTACHMENT A

Attachment A consists of the permit application submittals as referenced in Part II of this permit.

ATTACHMENT B

Minor Amendments, Modifications, and Corrections
to MSW Permit No.2310

[In lieu of this sheet, the agency document authorizing the permit change may be used.]

Description of Permit Change:

Permit Sections Revised:

List of Items Revised in the Site Development Plan of the Permit Application which are Incorporated by
Reference in Permit Provision II:

MSW/2310/PA



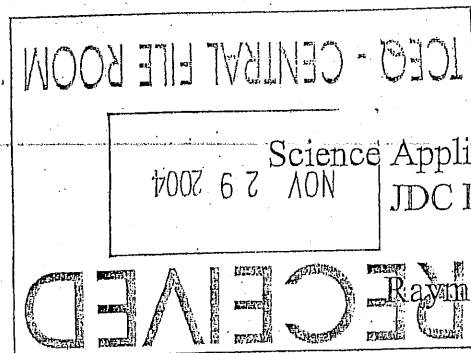
Science Applications
International Corporation

MSW PERMIT NO. 2310

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**Municipal Solid Waste
J-V Dirt + Loam
Composting Permit Application**

J-V Dirt + Loam Composting Facility
Austin, Travis Co., Texas



Engineers:

Science Applications International Corporation

JDC International Corporation

And

Raymond Chan and Associates

February 2004

TECHNICALLY COMPLETE COPY

Municipal Solid Waste J-V Dirt + Loam Composting Permit Application

J-V Dirt + Loam Composting Facility
Austin, Travis Co., Texas

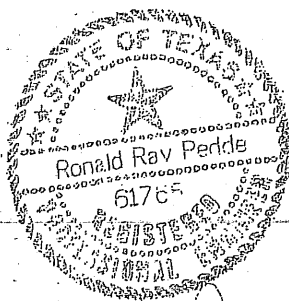
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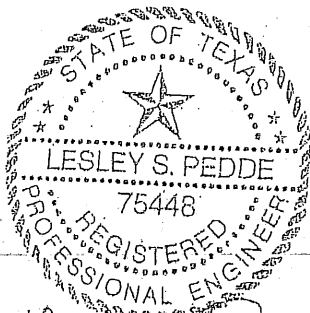
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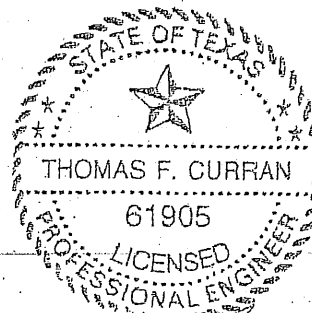
December 2003
Revised February 2004



Ronald Ray Peck
2/12/04



2-12-04



2/12/05

soil and be capable of sustaining the weight of loaded transport trucks. The interior road will be watered as needed for dust control and cleaned of debris to prevent tracking from the site. The storage pond will not be used as a source of water for dust control outside of the process areas (the excavation area), water for the upper roads (outside of the excavation area) will come from an off-site source. Dust minimization techniques as outlined in Section 5 will be utilized.

Currently, an 8-foot berm lines the front of the property and parallels FM Road 973 North. Access from FM 973 is through a high-security, lockable gate. Shumaker's property, which borders J-V Dirt on three sides, has fencing and 8-foot berms on the north, south, and east boundaries, which also limits access to J-V Dirt's property. The Colorado River is located on the eastern boundary of Shumaker's property, which also limits access to the J-V Dirt property. Upon receipt of the composting permit and prior to accepting feedstock, a manproof fence with lockable gates will be completed around the facility to further restrict access from all directions.

As noted, the composting operation will operate 24 hours per day with gate access available from 6:30 am to 7 pm, unless otherwise arranged. Gate and property access will be monitored through close-circuit video cameras and an attendant at the front gate or the office. The attendant will review all manifests and documentation before allowing access to the site. The gate attendant will notify a Compost Operator concerning the incoming load. The Compost Operator will visually inspect the load for prohibited and unauthorized materials. Signs will indicate the location of the composting operation, feedstock offloading area, the sand and gravel operation, and the product area. The driver will be provided with a location map.

Access will be limited to employees, authorized visitors, and customers. Access will only be allowed when employees are present. A sign will be posted at the front gate identifying the site, permittee name, the permit number, and the hours of operation.

5.4 Prohibited and Unauthorized Material

The feedstock and wood bulking material will be visually inspected by trained personnel prior to acceptance. Loads containing unauthorized or prohibited materials will be rejected. The transporter will be responsible for removal. Prohibited substances include fungicides, herbicides, insecticides and other pesticides that contain constituents listed in 40 CFR Part 261, Appendix VIII or on the Hazardous Substance List contained in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) see Appendix H for a listing of Prohibited Substances.

Undesirable materials, i.e., plastic, rocks, etc., may be discovered during the screening or blending process. These will be removed by the Compost Operator and properly disposed.

Upon acceptance of the load, the truck driver will be directed to the proper unloading area and provided with a site location map. All unloading areas will be signed. Site personnel will direct the unloading.

5.5 Fire Protection

As outlined in Sections 4.5.3 and 4.5.4, Processing and Post Processing/Curing, J-V Dirt intends to rigorously monitor the windrow appearance, temperature, and moisture content of the compost material and add water or moisture, as needed, and/or turn the windrow to maintain proper composting temperatures. This and prohibition of smoking in the composting area will minimize the possibility of fire. Since the facility is located below surface elevation in an inactive portion of the sand and gravel mining operation, in the unlikely event of a fire in the composting area, the fire will be contained in the composting area. The wood bulking material will be located at least 50 feet from the road and the trees along the property line to mitigate the fire migration. Although fire extinguishers will be available the onsite operators are not fire fighters and will not be trained to fight fires. Proper use of the fire extinguishers will be demonstrated on an annual basis. If a fire or smoldering material is discovered, the first steps will be to contact the Plant Manager who will contact the local fire department. The Plant Manager will determine if it is appropriate to attempt to isolate the fire or smoldering area with a front-end loader. All composting personnel will be trained in fire prevention through the local fire department.

Although there are no local fire codes in effect in this area the site is accessible to fire equipment and the aisles between the windrows will be wide enough to allow access for fire equipment. The City of Austin Fire Department and the Travis County Fire Marshal will be informed of the use of the site and provided a copy of this operating plan.

5.6 Control of Windblown Material and Dust

The only light feedstock material proposed for acceptance at the facility is paper. J-V Dirt proposes to accept only shredded paper, which will be delivered in covered vehicles and delivered directly to the tipping area. Also, the tipping area and composting area will be located below surface grade, essentially eliminating the possibility of any windblown material. Strict housekeeping measures will be used to control the accepted paper and employee-generated paper and plastic. Dust will be controlled through construction and management practices. Facility roadways will be constructed of compacted soil. As available, a ground glass or gravel top dressing may be used. Water will be applied to the roadways, as needed. The storage pond will not be used as a source of water for dust control outside of the process areas (the excavation area), i.e., areas not lined with clay. Water for the upper roads (outside of the